

***Request for Reconsideration***

Applicant thanks the Examiner for the consideration given this application.

Reconsideration of this application is requested in view of the following remarks.

Claims 1-13 and 15-38 are pending in this application. Claims 1, 13, 15-17, and 26 are independent claims.

At pages 2-10, the Office Action rejects Claims 1-4, 12, 13, 15-18, 25-28, and 35-37 under 35 U.S.C. § 102(b) as being anticipated by Suzuki et al. (U.S. Patent No. 5,903,843). At pages 10-16, Claims 5-11, 20, 21, 31, and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki et al. in view of Elliot (U.S. Patent No. 6,937,747). At pages 16-17, Claims 19 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki et al. (WO 02/17668) in view of Vedrine (WO 01/86889). Finally, at pages 17-20, Claims 22-24, 29, 33, 34, and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki et al. in view of Parantainen et al. (WO 02/17668). All of these rejections are respectfully traversed for at least the following reasons.

All of the independent claims (Claims 1, 13, 15-17, and 26) include recitations that a communications network generally provides to a communications device at least a direct cell access mechanism and an alternative cell access mechanism and that the direct cell access mechanism enables the communications device to directly start sending user data on a traffic channel without requesting access resources when user data is available to send. It is respectfully submitted that Suzuki et al., on which all of the rejections listed above are based, fails to disclose or suggest such features.

For example, consider the rejection of Claim 1 at page 3 of the Office Action.

The Office Action asserts that these claim elements, as well as the final claim element (“determining by the communications network and indicating to the communications device whether the direct cell access mechanism can at a given time be provided”) are disclosed at col. 2, lines 48-56, col. 4, lines 47-59, and col. 5, line 17 to col. 6, line 45.

First, Applicant fails to understand how col. 3, lines 48-56, which discuss how a base station may assign traffic channels without communicating with another base station or control station, is at all relevant to the claimed subject matter.

Next, col. 5, line 17 to col. 6, line 45 will be addressed. Col. 5, lines 17-56 describes procedures to be carried out by a mobile station 300-B. In particular, as noted at lines 24-40, the mobile station receives signals from other base stations (200-N, etc.) and determines whether or not the channel that was selected for mobile station 300-B by base station 200-B, as a *candidate* channel, can be used for communicating or not. *Note that it is the mobile station, not the base station, that determines availability of the traffic channel selected by the base station.* Hence, even if the selected channel is a direct cell access mechanism, which Applicant disagrees with, Suzuki et al. fails to determine if, at a given time, communication over the selected channel can be provided.

Continuing, col. 5, line 56 to col. 6, line 45 address Fig. 4 and discuss a First Available (FA) traffic assignment method that may be used by the base station 200-B, based on received signal strength levels. See, e.g., col. 5, lines 56-60. As noted at col. 5, lines 61-62, this method is executed “when a call (or request to assign an available channel) is generated.” In contrast, the claims require that the direct cell access

mechanism and alternative cell access mechanism be generally provided, not only provided upon request. Here, too, Suzuki et al. fails to disclose an element of the claims.

Col. 6, lines 1-19 address the rest of the method of Fig. 4, as the base station 200-B goes through the various traffic channels, measuring received signal strength on each channel, in turn, until it finds a channel that can be selected. However, it is possible that no channel can be selected, noting lines 15-19. This, too, supports the idea, stated in the immediately preceding paragraph, that channels in Suzuki et al. are not *generally provided*, but are, rather, provided upon request.

Col. 6, lines 20-35 discuss, again, how the mobile station 300-B measures received signal strength on the selected channel (if any) and lets the base station 200-B know if it can be used or not. Again, the *mobile station*, not the base station, *determine whether a selected channel can, at a given time, be provided* (in contrast to the claims, in which the communications network determines and indicates to the communications device if the direct cell access mechanism can be provided).

Finally, col. 6, lines 36-45 discuss how the above processes are repeated if the mobile station *tells the base station that it does not have permission* to use the selected channel as a traffic channel. It is also stated, at lines 36-40, that “[i]f the response signal from the mobile station 300-B indicates the permission to use of the candidate for assignment channel (step 405), the base station 200-B starts talking by use of the candidate for assignment channel as a traffic channel.” This reflects the fact that it is the *base station*, and not the mobile station, *that has data and is awaiting the opportunity to transmit to the mobile station*, and not *vice versa*. In other words, in Suzuki et al., while the base station selects a channel, the mobile station makes the decision as to whether to

provide the channel (i.e., to decide whether or not it is available), and there is no generally-provided alternative access mechanism (i.e., another candidate channel must be selected by the base station and evaluated by the mobile station). Furthermore, it is the base station that is awaiting the opportunity to send information to the mobile, and not *vice versa* (i.e., Suzuki et al. is dealing with access mechanisms for the *base station*).

Col. 4, lines 47-59 merely provide a higher-level discussion of similar subject matter.

In view of the above, it is respectfully submitted that Suzuki et al. cannot anticipate any of the claims and that all of the claims are allowable over Suzuki et al. Furthermore, Applicant has reviewed the other cited references (Elliot, Parantainen et al., Vedrine), and it respectfully submitted that none of these additional references remedies the shortcomings of Suzuki et al.

For at least these reasons, it is respectfully submitted that Claims 1-13 and 15-38 are allowable over the cited references.

Applicant may not have presented all possible arguments or have refuted the characterizations of either the claims or the prior art as may be found in the Office Action. However, the lack of such arguments or refutations is not intended to act as a waiver of such arguments or as concurrence with such characterizations.

***Conclusion***

Applicant believes that the above amendments and remarks address all of the grounds for rejection and place the application in condition for allowance. Applicant, therefore, respectfully requests prompt and favorable consideration of this response and reconsideration of this application.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone the undersigned at the number provided.

Respectfully submitted,

/Jeffrey W. Gluck/

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